

PLANNING BOARD
Meeting Minutes
Tuesday, June 21, 2011
Town Hall, 120 Main Street
7.00 PM

Present: J. Simons, R. Rowen, M. Colantoni, T. Seibert

Absent: R. Glover, C. LaVolpicelo

Staff Present: J. Enright

Meeting began at 7:05pm

POSTPONEMENT

CONTINUED PUBLIC HEARING: 288 Sutton Street, Frontage and Lot Width Exception Special Permit through July 29, 2011.

PUBLIC HEARINGS

CONTINUED PUBLIC HEARING: 1679 Osgood Street, Definitive Subdivision for 9 single-family residential lots, common driveway, and frontage exception special permits.

Joe Coronati, Jones and Beach Engineering: Reviewed an amended plan that incorporates Chris Adams' lot and the grading and drainage for the added lot as well as the applications filed for the Common Driveway and Street Frontage Access Special Permits. Reviews from VHB, L. Eggleston, and the DPW are still ongoing. Applicant has filed an amended NOI with the Conservation Commission for the impact to a wetland on C. Adams' lot.

J. Simons: Asked if the 3 lot design is being treated as a roadway and the roadway construction would then be waived.

J. Coronati: Yes. There is a 40' wide right-of-way provided and the frontage is on that right-of-way.

R. Rowen: Asked why it wasn't a 50' right-of-way.

J. Coronati: Explained it can be achieved and that previously a yield plan was submitted. There is plenty of area and it can be done if that is something the Board wants to see.

J. Simons: Suggested that as long as the 50' can be demonstrated then stay with the 40'.

Board recommended the applicant continue to address L. Eggleston's concerns and come back for the next meeting.

CONTINUED PUBLIC HEARING: 288 Sutton Street, "Mathews Way" Proposal of a Five (5) Lot Definitive Subdivision.

J. Simons summarized J. Tymon's meeting notes regarding new plans submitted and questions related to drainage and stormwater.

J. Simons: Asked when the applicant intends to go before the Zoning Board of Appeals to apply for the two-family special permits.

J. Smolak, Attorney: The applicant will make a determination at time he is ready to construct. Based on market conditions he may make a determination to convert some from two-families to single family homes. Not planning to go before the ZBA until at least the fall and it may not be until the spring.

J. Smolak: Explained the recent revisions to the plans which include two driveways for each home, two four foot wide hard packed gravel on both the sides of the road to support emergency vehicle access, street trees and screening trees. The Fire Department has provided a letter stating they approve of the widened gravel shoulders for emergency access and they require that "No Parking" signs be posted on one side of the street. A fire hydrant will be installed at the intersection of Matthew's Way and Sutton Street. L. Eggleston has also submitted a letter stating that all issues raised in her previous comment letters have been addressed. She identified two remaining items that will be addressed and the results will be sent to her for review. The street will be a Private Way and there will be a homeowner's association responsible for the maintenance.

All of VHB and DPW issues have been resolved.

J. Simons: Stated that they should be able to finish the hearing at the next meeting.

R. Rowen: Asked what waivers will be requested.

J. Smolak: Summarized the primary waivers as: width of the right-of-way, width of the pavement, and elimination of the cul-de-sac with the substitution of a hammerhead.

CONTINUED PUBLIC MEETING: 16 Berry Street, Proposal of an 11-lot Preliminary Subdivision Plan on a 27.6 acre parcel.

J. Simons: requested that J. Tymon draft an informal letter documenting the previous meeting and notating what the Board liked and disliked about the Preliminary Plan. They will vote on this at the next meeting.

NEW PUBLIC HEARING: 0 Methuen Street, Single lot Definitive Subdivision

J. Simons summarized J. Tymon's meeting notes stating that the applicant has applied for a Roadway Improvement, using the Definitive Plan process for a single lot Definitive Subdivision. The proposal is to construct a single family home on a 13,850 sq. ft. lot in the R4 District. There was a prior proposal for construction of a two-family house that did not happen. Methuen Ave is an existing right-of-way that is not up to sufficient width, grade and construction. The plan is to extend the current roadway 56 linear feet and provide a driveway to the single family home/garage.

Walter Eriksen, Project Engineer: Provided an overview of the location of the lot and surrounding area. Stated that the proposed house would meet all zoning requirements. Discussed the four comments submitted by DPW and how they would address each of them. The town's stormwater engineer has reviewed the project and submitted comments. Stated that they will address each of these comments. Has done test pits and soil analysis but did not bring the results. The foundation will be raised with a walkout basement. This will allow them to be out of the ground water table. Provided a description of the proposed house design.

J. Simons: This is really being constructed as a driveway off the existing roadway as opposed to a roadway that goes up to a certain point.

R. Rowen: The frontage is actually on the paper street.

J. Simons: Technically you are supposed to run the right-of-way the length of the frontage because you are supposed to demonstrate access over the frontage; however, this may not be needed in this case because it doesn't bring any additional value.

Abutters:

Vinnie Funaro, 402 Sutton Street: Would like as many trees and grass as possible to remain because removing them and replacing them with asphalt will cause a very wet area to become worse. The water currently flows in from Sutton St. and pools on Methuen Ave. Mr. Funaro received a driveway permit from the Town a long time ago and has paved a small section of Methuen Ave. that his family parks on.

W. Eriksen: There will need to be some trees removed in order to maintain the width of the paved section. He is not opposed to reducing the width of the proposed pavement.

Discussion related to the proposed re-paving, slope, grading, catch basins, and stormwater runoff around and along Methuen Ave.

J. Simons: Asked that J. Tymon speak to DPW about the stormwater flow at the intersection of Sutton Street and Methuen Ave.

V. Funaro: Second concern is related to parking. Asked for clarification of what his rights to Methuen Ave. are and if they will be affected.

J. Simons: The road is meant to be continued. Explained that as long as he doesn't park in the middle of the road and block access he shouldn't have a problem parking on the side of the road.

V. Funaro: Expressed concern that when the park across the side of the street is busy that people may start to park on Methuen Ave. and would like to have it designated Private Parking.

J. Simons: Stated that it is a Way that is open to the public. Technically, if people wanted to park there you couldn't stop them. The best relieve is that it is narrow and relatively unobtrusive.

V. Funaro: Asked for confirmation that, based on what was said tonight, that Methuen Ave. would remain like any other street and that at no point during this process would he be told he can not park there.

T. Seibert: As long as you don't block access to the street.

W. Eriksen: Suggested they discuss possibly putting a reference to the parking in the covenant.

V. Funaro: Agreed to discuss the possibility of doing something like that. Also, gave the Board pictures of water pooling around Methuen Ave. and parking when the park is busy with softball games.

J. Ottaviani, 25 Wood Avenue: Concerned that when the trees are cut down on the Lot the water will begin to flow in his direction.

J. Simons: There is a requirement is that the rate of flow off the property post development can not be any greater than pre-development. They have proposed roof drains and we have an outside consultant review the project.

J. Simons: We will hear and try to finish this at the next meeting if all the issues are resolved.

NEW PUBLIC HEARING: 140 Academy Road, Application for a Land Disturbance Permit in connection with proposed construction of five detached single-family homes.

J. Simons: Summarized J. Tymon's meeting notes. This is the first application we have received under the Land Disturbance Permit Bylaw.

Jim Fairweather, Project Engineer: Has reviewed the project with the Conservation Commission and Planning Board in November and early December. The five existing lots will have frontage on Stevens Street. Reviewed the proposed extension of a sewer line and tying into water connections, grading for driveways, landscaping, walks, and houses. The land disturbance will be approximately 2.26 acres. The overall imperious area will be about 4/10ths of an acre. Discussed proposals to improve some of the drainage situations at the site and submitted pictures of these areas.

R. Rowen: Clarified that the Board does not have any say on the houses themselves. Asked how steep the driveways of the middle lot and one to the left are.

J. Fairweather: Just under 12%

J. Simons: Asked for an overview of the retaining walls.

J. Fairweather: Described locations, heights, and material to be used for walls.

T. Patenaude, Developer: Explained 20' is needed behind the wall to work on the wall and there is another 15' in some areas to slope the hill down. The slope will have ground cover landscaping. There will be an even 3:1 slope along the back.

J. Simons: Did you consider having one driveway as opposed to the two back-to-back driveways to reduce the amount of impervious surface?

T. Patenaude: We really didn't think of using a common driveway.

R. Rowen: A common driveway, especially for the two on the right may make it a little longer, less steep, and possibly a little bit safer.

T. Patenaude: We will look into it.

R. Rowen: Will there be a significant cut to get to the finished grade of the foundation.

T. Patenaude: It may be up to 6-8 feet towards the back, but not in the front.

Abutters:

Don Downes, Stevens Street: Questioned why the retaining wall is sloped down into his land. Concerned that it might be a drain area.

T. Patenaude: It is just a way to taper it down. It can be curled in at the end. It won't be a drain area. Will look into curling it in.

NEW PUBLIC HEARING: 0 Chestnut Street, Renewal for a Wireless Special Permit and request to add three additional antennas and related equipment.

J. Simons summarized J. Tymon's meeting notes. The original permit was issued in June 2006 and a renewal was submitted and approved in October 2007. That renewal was litigated and as a result, the Economic Development Reorganization Act, the permit is valid until at least May 31, 2011. The applicant has supplied the following documents in support of the renewal: an application for a Special Permit, a copy of the original Special Permit and Special Permit Extension, Letter of Authorization from the tower owner, SBA Properties, Inc., Copy of the original Building Permit, copy of the as-builts, certified abutters list and mailing requirements, and list of requested Waivers from section 8.9. The applicant had previously filed both a Noise Report and an RF Emissions report in September and October 2010. In addition to the renewal, the applicant is requesting a modification of the existing Special Permit to allow the installation of 3 LTE (Long Term Evolution) antennas. As a result of a pre-conference discussion at the May 17, 2011 Planning Board meeting regarding the modification request, the Planning Board notified the applicant that the following information is required to be part of the application: RF Affidavit from an RF Engineer, an updated Noise Study, An updated RF Report, A Structural Report, and Certificate of Insurance.

The Board also requested that the town's outside consultant review the RF report. The information was sent to Mark Hutchins who provided the following response:

- AT&T has been licensed by the FCC to provide services involving additional spectrum, which is what the LTE antennas will provide. The FCC has determined that AT&T is entitled to use of this spectrum, regardless of coverage provided by other carriers.
- After examining the coverage maps provided by AT&T, Mark concluded that there is clearly a coverage gap that can be closed by placing the antennas at 300 Chestnut St. It is also clear that placement of the LTE antennas on any other site would not close the coverage gap.
- Mark has reviewed the RF Emission report submitted by AT&T and concludes that there will be a negligible increase in exposure from the additional antennas.
- Mark has also noted that the structure height will not be increased with the mounting of the new antennas.

The Board had also requested a structural report. The applicant has asked for this report from the tower owners and is expecting to have that report ready for the meeting.

R. Rowen: The Special Permit was good through the end of May and the application for renewal was submitted within the lifetime of the existing permit.

Susan Roberts, Anderson and Kreiger LLP representing for applicant: Confirmed that the application was submitted within the timeframe required and explained the reasoning for the request for modification to the facility. There is some expansion of the geographic coverage; however, mostly it is a capacity upgrade. A Noise Report was submitted previously (last fall) and shows that we are in compliance with acoustic noise at the facility. Footnote two on page four of the renewal application references the RF emissions report prepared by Donald Haes, dated September 28, 2010. These two reports are on file and, based on the Planner's direction, were not resubmitted. For the modification, an RF Report, photo simulations, plans locating the antennas on the existing facility, cabling and the additions that will be made in the equipment shelter, another Noise Test and another Maximum Permissible Exposure Report that shows compliance once these new antennas are installed were included. M. Hutchins has supported the application. He requested coverage maps which were provided last week. Would like signoff of the waiver requests submitted.

Kevin Brewer, Radio Frequency Engineer with AT&T: Provided an overview of the coverage maps and the LTE antenna technology. Discussed possible capabilities of potential future technology.

T. Seibert: Asked for an overview of the results of the Noise Report.

S. Roberts: Explained that it is the HVAC system at the site that causes the difference from the previous report, not the antennas.

170 T. Seibert: Does the addition of the antennas require additional HVAC?
 171 S. Roberts: No. Stated the antennas themselves do not create any noise.
 172 T. Seibert: Inquired about what the cumulative RF Maximum Performance Exposure is.
 173 K. Brewer: Spoke generally about FCC requirements.
 174 M. Colantoni: Asked if North Andover presently has adequate 3G data coverage and asked if this is purely for a capacity issue.
 175 K. Brewer: It is the next generation services. This is for LTE.
 176 J. Simons: Asked where the structural report is.
 177 S. Roberts: It should be received next week and it will be filed.
 178 J. Simons: Summarized the review response from M. Hutchins.
 179 S. Roberts: Reviewed the waiver requests.
 180 Steven Tryder, 386 Chestnut Street: Stated procedural issues. Expressed concern that the application for renewal and other documents
 181 were not available at the meeting. Also concerned that current status in court is that this is still under appeal so it is not settled in
 182 terms of whether or not this falls within the renewal guidelines that S. Roberts cited.
 183 J. Simons: Stated that the documents are available at the Planning Office and will be made available at the next meeting.
 184 S. Tryder: Believes it is a violation and that the documents are required to be at the meeting. Also, expressed concerns with the
 185 wording on the Legal Notice. Understood the renewal language but wanted to know the definition of a modification. Requested a
 186 copy of the section of the Bylaw that relates to a modification be brought to the next meeting.
 187 J. Simons: Stated that the Notice worked in that Mr. Tryder showed up to the meeting.
 188 S. Tryder: Asked S. Roberts what permit date she is working from for the renewal.
 189 J. Simons: It is extended because of litigation. Litigation freezes the clock.
 190 S. Tryder: It is under appeal and if they lose what happens?
 191 J. Simons: Believes that if they lose what is done subsequently would be null and void.
 192 S. Tryder: Questioned the equipment shelter plan and what will be changed on the ground.
 193 S. Roberts: A cabinet will be added but it will not make any noise. Showed the plans and stated that it is 23" wide. It is inside the
 194 existing enclosure.
 195 J. Simons: Stated the Planner will make a full set of the application and other documents and that he can go to the office and get a full
 196 set. This includes the RF letter submitted by D. Haes and the Noise Report, both submitted in the fall of 2010.
 197 S. Tryder: Requested a copy be at the next meeting for himself and other people too.
 198 S. Roberts: Clarified that with regard to the date and the relevant date of the permit expiration it was extended because of the Act not
 199 because of the litigation. The litigation recognized that the permit had been extended because of the Economic Development
 200 Reorganization Act. The litigation is still in court.
 201 S. Tryder: Confirmed that relevant date being used is May 31, 2011.
 202
 203 **NEW PUBLIC MEETING: 2009 Salem Street, Proposal for a 3-Lot Preliminary Subdivision Plan.**
 204 J. Simons: This is a public meeting, not a public hearing. Summarized J. Tymon's meeting notes. The proposal is a three lot
 205 subdivision on a parcel that contains one dwelling unit. The proposal shows an 18 ft. wide 'driveway' in place of a cul-de-sac,
 206 utilizing the footprint of the existing driveway for the home located at 2009 Salem Street. The applicant has included 'proof' plan,
 207 showing a cul-de-sac layout, showing a 50 ft. ROW and a 120 ft. diameter cul-de-sac. The applicant is also proposing that a portion of
 208 the site remain as open space and has expressed willingness to incorporate a Conservation Restriction. This would preserve the area
 209 containing the vernal pool, steep slopes, and Natural Heritage area. There was a previous proposal reviewed for this site (Juniper
 210 Woods).
 211 Adam Costa, Attorney representing the applicant, George Haseltine: The property is under option. Provided an overview of the
 212 project and reviewed the proposed plan. Requested a number of waivers and would like a sense of the Board as to those waivers.
 213 There will be 11 waivers requested, 8 of which are related to the construction of the roadway.
 214 Bill Dufrane, Project Engineer: Provided an overview of the site, including proposed driveway, wetlands, septic and well locations for
 215 the new lots. The design attempts to maintain the rear portion of the site in its natural state. Intend to sprinkle the buildings for fire
 216 protection.
 217 R. Rowen: Asked if the parcel is relatively flat.
 218 B. Dufrane: Coming off Salem Street it is steep up to the curve in the driveway and then it is flatter. There will be cuts and fills
 219 required. The houses will be relatively close to existing grade.
 220 J. Simons: Explained that the Board's practice in cases like this, where there are only a couple of additional lots, has been to waive
 221 the physical construction of the roadway where it makes sense. We can't say it definitively but in the spirit of a preliminary hearing
 222 the approach in this case is welcomed.
 223 A. Costa: Reviewed an additional waiver requesting to waive the requirement for an alternative water supply. Instead they will
 224 propose that the house be sprinkled since these homes will not be on public water.
 225 J. Simons: Agreed that this is a good request.
 226 J. Simons: We will write up notes reflecting the discussion of this meeting. It is not an official decision.
 227

228 **DISCUSSION**

229 First & Main Market Place (Messina's Plaza): New restaurant and hours of operation.

230 **Tina Messina:** Explained that she is before the Board because of a restriction that was included in the Special Permit that was
231 granted in 2007 that stated they would have to come back to the Board to determine if sufficient parking exists if they were to lease
232 to a restaurant. She now has an individual who is interested in opening a restaurant in the Plaza. Also, requested an extension to
233 hours of operations in order for the restaurant to be open until midnight on Friday and Saturday nights. The proposed restaurant
234 would seat approximately 146. Hourly traffic counts at the Plaza were submitted and reviewed with the Board. The restaurant will
235 be open for lunch and dinner. There are no deliveries at the site from 11pm until 6am. The lightening will not change.

236 **MOTION**

237 A motion was made by R. Rowen to that this proposal does not require a modification to the Special Permit. The motion was
238 seconded by T. Seibert. The vote was unanimous.

239 **Lot Release Request:** Lot 6 Ogunquit Road

240 Stephen Breen requested a release for Lot 6 on Ogunquit Road. There is a house under agreement and would like to get a building
241 permit. There are remaining bond funds.

242 **MOTION**

243 A motion was made by R. Rowen to sign the Form J to release Lot 6 on Ogunquit Road. The motion was seconded by T. Seibert. The
244 vote was unanimous.

245 **MEETING MINUTES:**

246 A motion was made by T. Seibert to approve the meeting minutes for the Planning Board meetings held on May 17, 2011 and June 7,
248 2011. The motion was seconded by M. Colantoni. The vote was 3-0 in favor. R. Rowen abstained.

249 **ADJOURNMENT:**

250 A motion was made by R. Rowen to adjourn the meeting. The motion was seconded by T. Seibert. The vote was unanimous.

251
252 The meeting adjourned at 9:35 pm

253
254 **Meeting Materials:** 6/21/2011 Agenda, 1679 Osgood St. Wetland Buffer Impact Plan, 1679 Osgood St. Yield Plan, 1679 Osgood
255 Street Color Rendering Map 61 Lots 16 and 34, Definitive Plan Mathews Way, Eggleston Environmental 288 Mathews Way review
256 letter dated June 10, 2011, Lt. Frederick McCarthy Letter dated June 14, 2011 re: Mathew's Way, Proposed Roadway Improvement
257 Plan dated May 13, 2011 (3 pages), Eggleston Environmental 0 Methuen Ave. review letter dated June 15, 2011, Gene Willis Letter
258 dated June 21, 2011 re: 0 Methuen Ave., 0 Methuen Ave site pictures, Applewood Construction Corp. letter dated June 21, 2011 re:
259 response to report of L. Eggleston dated June 15, 2011, Applewood Construction Corp. letter dated June 21, 2011 re: response to
260 DPW Memorandum, Lot Grading Plan Stevens Street (140 Academy Road) rev. date April 21, 2011, Site pictures Stevens Street,
261 Mark F. Hutchins (Consulting Radiofrequency Engineer) review of 300 Chestnut Street Modification of Wireless Facility dated June
262 17, 2011, 300 Chestnut Street---AT&T Mobility title sheet, general notes, plans and details, elevation, grounding, one-line diagram
263 and details, 300 Chestnut Street---AT&T Maximum Permissible Exposure Study (8 pages), 300 Chestnut Street---AT&T coverage
264 maps (3 pages), Environmental Sound Assessment---AT&T Communication Equipment 300 Chestnut Street dated 10/13/2010,
265 Donald L. Haes, Jr., Ph.D. CHP Radiation Safety Specialist letter dated 09/28/ 010, 2009 Salem Street Preliminary Subdivision Plan
266 rev. date June 16, 2011, Marchionda & Assoc., LP letter dated June 15, 2011 re: as-built parking space count first & main market
267 place, 109-123 main street, Gerald Brown, Building Commissioner and Zoning Enforcement Officer letter re: First & Main parking
268 space requirement, First & Main revised parking plan dated May 27, 2011, Planning Board Notice of Decision 109-123 Main Street
269 dated May 17,2007, Zoning Board of Appeals Notice of Decision 109-123 Main Street dated May 15, 2007, Parking count data 109-
270 123 Main Street rec'd 6-21-2011, Huntress Associates letter dated Feb. 28, 2007 re: Messina's Market Shopping Center, 5/17/2011
271 Meeting Minutes, 6/7/2011 Meeting Minutes
272